

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6541 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RANCHHODBHAI JIVABHAI PARAMAR

Versus

DIVISIONAL CONTROLLER, GUJARAT STATE ROAD TRANSPORT CORPN

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Appearance:

MR HK RATHOD for Petitioner

MR HARDIK C RAWAL for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/03/98

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioner, a conductor in the respondent-Corporation, filed this special civil application and challenges thereunder the award of the Labour Court at Nadiad passed in Reference (L.C.N) No.713/83 OLD No.312/83 decided on 15th July, 1983.

3. The petitioner on the misconduct of leaving wilful absent from duty was dismissed from the services after holding a departmental inquiry. He raised an industrial dispute and under the award impugned in this special civil application, the penalty of dismissal given to the petitioner by the Corporation was found to be excessive, and as such, the Labour Court has taken a lenient view and the penalty of dismissal was ordered to be substituted by the penalty withholding of backwages for interregnum and the Corporation was directed to reinstate the petitioner in services.

4. The learned counsel for the petitioner is unable to satisfy this Court how the award passed by the Labour Court is perverse, which calls for interference of this court. It is a case where the Labour Court has taken a lenient view and by considering the penalty of dismissal to be excessive it has been substituted by the penalty of withholding of the backwages of the petitioner. So it is not the case of the petitioner that the backwages have been denied to him but the Labour Court found that the petitioner has committed a misconduct but the penalty of dismissal given to him by the Corporation was considered to be excessive and as such it was substituted by lesser penalty. In the matter of what penalty should be given to a delinquent employee for a proved misconduct, it is exclusively in the domain of the disciplinary authority but here is a case where the Labour Court has interfered with the penalty and substituted it by lesser penalty. But this Court has very very limited power of judicial review in this matter.

5. Taking into consideration the totality of the facts of this case, I do not find any illegality in the order of the Labour Court, which calls for interference of this Court sitting under Article 227 of the Constitution.

6. In the result, this special civil application fails and the same is dismissed. Rule discharged.

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